

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:
State of Iowa v. Abbott Laboratories, et al.

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**DECLARATION OF SHAMIR PATEL IN SUPPORT OF
CERTAIN DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

I, SHAMIR PATEL, duly declare under penalty of perjury as follows:

1. I am an attorney at law admitted to practice in the State of New York and the District of Columbia and am an attorney in the law firm of Dickstein Shapiro LLP, counsel for Defendants Baxter Healthcare Corporation and Baxter International Inc. I am familiar with all of the facts and circumstances herein. I make this declaration in support of Certain Defendants' Motion to Dismiss the Complaint in the above-captioned action.

2. Attached hereto as Exhibit A is a true and correct copy of 1967 Iowa Acts ch. 223.

3. Attached hereto as Exhibit B is a true and correct copy of VI Iowa Admin. Bull. 741-44 (Dec. 7, 1983).

4. Attached hereto as Exhibit C is a true and correct copy of 1986 Iowa Acts ch. 1246, § 309(1)(d).

5. Attached hereto as Exhibit D is a true and correct copy of Iowa Admin. Code r. 498-78.2(a) (1987).

6. Attached hereto as Exhibit E is a true and correct copy of IX Iowa Admin. Bull. 1249-50 (Jan. 14, 1987).

7. Attached hereto as Exhibit F is a true and correct copy of Iowa Admin. Code r. 441-79.1(8)(a) (2004).

8. Attached hereto as Exhibit G is a true and correct copy of XXV Iowa Admin. Bull. 361-63 (Sept. 4, 2002).

9. Attached hereto as Exhibit H is a true and correct copy of HHS-OIG, *Changes to the Medicaid Prescription Drug Program Could Save Millions*, A-06-40216 (Sept. 1984).

10. Attached hereto as Exhibit I is a true and correct copy of HHS-OIG, *Medicaid Pharmacy – Actual Acquisition Cost of Prescription Drug Products for Brand Name Drugs*, A-06-96-00030 (Apr. 1997).

11. Attached hereto as Exhibit J is a true and correct copy of HHS-OIG, *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products*, A-06-97-00011 (Aug. 1997).

12. Attached hereto as Exhibit K is a true and correct copy of HHS-OIG, *Medicaid Pharmacy – Actual Acquisition Cost of Brand Name Prescription Drug Products*, A-06-00-00023 (Aug. 2001).

13. Attached hereto as Exhibit L is a true and correct copy of HHS-OIG, *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products*, A-06-01-00053 (Mar. 2002).

14. Attached hereto as Exhibit M is a true and correct copy of HHS-OIG, *Medicaid Pharmacy – Additional Analyses of the Actual Acquisition Cost of Prescription Drug Products*, A-06-02-00041 (Sept. 2002).

15. Attached hereto as Exhibit N is a true and correct copy of HHS-OIG, *Appropriateness of Medicare Prescription Drug Allowances*, OEI-03-95-00420 (May 1996).

16. Attached hereto as Exhibit O is a true and correct copy of Bill Alpert, *Hooked on Drugs: Why Do Insurers Pay Such Outrageous Prices for Pharmaceuticals?*, Barron's, June 10, 1996, at 15.

17. Attached hereto as Exhibit P is a true and correct copy of H.R. Rep. No. 105-149, Balanced Budget Act of 1997 (1997).

18. Attached hereto as Exhibit Q is a true and correct copy of President's Radio Address, 33 Weekly Comp. Pres. Doc. 2033 (Dec. 13, 1997).

19. Attached hereto as Exhibit R is a true and correct copy of Donna Shalala, Secretary, Department of Health and Human Services, Report to Congress: The Average Wholesale Price for Drugs Covered Under Medicare (1999).

20. Attached hereto as Exhibit S is a true and correct copy of *Southard v. Visa U.S.A. Inc.*, No. LACV 031729, 2004 WL 3030028 (Iowa Dist. Ct. Nov. 17, 2004).

I hereby swear that the foregoing statements are true to the best of my knowledge, information, and belief.

Dated: February 20, 2008	<u>/s/ Shamir Patel</u> Shamir Patel DICKSTEIN SHAPIRO LLP 1825 Eye Street NW Washington, DC 20006 Telephone: (202) 420-2200 Facsimile: (202) 420-2201 Counsel for Defendants Baxter Healthcare Corporation and Baxter International Inc.
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CERTIFICATE OF SERVICE

I hereby certify that I, Shamir Patel, an attorney, caused a true and correct copy of the foregoing documents to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on February 20, 2008, for posting and notification to all parties.

/s/ Shamir Patel

Shamir Patel

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